

**BOONE COUNTY BOARD OF ADJUSTMENT  
BOONE COUNTY ADMINISTRATION BUILDING  
BOONE COUNTY FISCAL COURTROOM  
BUSINESS MEETING  
FEBRUARY 9, 2022  
6:00 P.M.**

Chairman Whitton called the meeting to order at 6:00 P.M.

Mr. Schwartz stated that the meeting was being held via video teleconference pursuant to KRS 61.826 due to the threats to public health presented by the novel coronavirus (COVID 19) pandemic.

Mr. Schwartz confirmed that all those in attendance could see and/or hear the proceedings. All those in attendance stated that they could see and/or hear the proceedings.

**BOARD MEMBERS PRESENT:**

Mr. George Whitton, Chairman  
Mr. Richard Miller, Vice-Chairman  
Mr. Chris Vaught-Hall  
Mrs. Sherry Hempfling  
Mr. Bill Weltzer

**BOARD MEMBERS NOT PRESENT:**

None

**STAFF MEMBERS PRESENT:**

Mr. Michael Schwartz, Director, Zoning Services  
Ms. Alaina Hagenseker, Planner

**LEGAL COUNSEL PRESENT:**

Mr. Dale T. Wilson

**APPROVAL OF MINUTES**

Chairman Whitton stated the Board members received copies of the minutes of the Boone County Board of Adjustment meeting of January 12, 2022. He asked if there were any other comments or corrections. Vice-Chairman Miller moved to approve the minutes with one correction of the second page the word should be officers, not officer. Mrs. Hempfling seconded the motion. Chairman Whitton called for the vote and it carried unanimously.

**ACTION ON REVIEWS**

1. Request of Sven Investments Enterprises, Inc., per Sven Khan, for a Conditional Use

Permit to allow the existing single-family residential dwelling to be used as a short term rental. The approximate 0.36 acre parcel is located at 3731 Avalon Drive, Boone County, Kentucky and is zoned Suburban Residential One (SR-1).

Staff Member, Michael Schwartz, stated that this is a continuation of the public hearing from January 12, 2022 and that public comment will be taken.

Staff Member, Michael Schwartz, reminded the Board of the Staff Report which included a Powerpoint presentation (see Staff Report).

Chairman Whitton asked if the applicant wanted to address the Board.

Ms. Judy Bour, asked if the Board had any questions for her. She stated that she intends to use the property for a short term rental.

Vice-Chairman Miller asked if she was aware of any of the testimony that was given at the Board's January meeting. Ms. Bour replied yes. Ms. Bour stated that they were not aware of the van that had the bumper sticker and if they had known, they would have addressed it immediately. She stated that she delivered to staff a response to previous comments earlier in the day. Mr. Schwartz stated that staff did receive the letter and that she should summarize the contents of the letter. Ms. Bour stated that they have a great reputation and have had no complaints from any neighbors.

Vice-Chairman Miller asked if the house has been rented for short term rental. Ms. Bour replied no.

Vice-Chairman Miller asked if the reviews were from another property in the area. Ms. Bour replied that it is from another property in the City of Florence, Independence, and Miami. She stated that they have cameras installed in their properties so they know exactly what is going on.

Vice-Chairman Miller asked for a review of the parking issue. Mr. Schwartz replied that since there are three bedrooms, the property would be limited to 8 guests and that there needs to be a minimum of five parking spaces. Mr. Schwartz stated that the site has two parking spaces in the garage and two spaces on the driveway. While there is room for another two vehicles on the driveway, they are not legal spaces since the vehicles would extend into the right-of-way.

Ms. Bour replied that they have six parking spaces. She showed a picture and Mr. Schwartz stated that the last vehicle in the driveway extended into the right-of-way and cannot count towards the required parking. There was a discussion regarding the number of occupants and the number of required parking spaces.

Chairman Whitton asked if the Board could grant approval with limited occupancy until the time that an additional parking space is provided. Mr. Schwartz replied yes.

Mrs. Hempfling asked if the driveway measures 16 feet by 30 feet within the private

property. Mr. Schwartz replied yes. Mrs. Hempfling asked if the driveway could be widened. Mr. Schwartz replied that it is possible to provide for an additional parking pad.

Chairman Whitton asked if the applicant wanted to move forward with the request, knowing the limitation on the number of occupants, use of two bedrooms, and the use of two guest parking spaces. Ms. Baur replied yes.

Chairman Whitton asked if there was anybody else in attendance that wanted to speak to this issue.

Mr. Larry Snyder asked if pets would be allowed. Ms. Bour replied no. Mr. Snyder asked if the applicant was going to install a fence in the rear yard to contain any pets that would be brought to the property. Ms. Bour replied that no fence is proposed. Mr. Snyder stated that a short term rental would not be compatible with the neighborhood. He stated that there are properties that have long term rentals and that those are compatible with the neighborhood. He stated that he is concerned what affect a short term rental will have on his property value. Ms. Bour stated that short term rentals actually increase property values. He stated that the addition of a parking space could interfere with the existing utility boxes. He stated that since the applicant was not present at the Board's January meeting, it speaks to how she will manage the property.

Ms. Mary Cahill stated that her husband spoke at the Board's January meeting and they are in agreement with Mr. Snyder and that they concerned with increased traffic.

Mr. Brett Hayes asked what work has been done to the inside of the house. Ms. Bour replied that the house is in good shape and that they have done basic cleanup, painting, and have created a game room in the basement. Mr. Hayes asked if any of that work would have required a permit. Ms. Bour replied no.

Mrs. Hempfling asked who is the local contact in case of an emergency. Ms. Bour stated that she is the local contact and she is fifteen minutes from the property.

Chairman Whitton asked if there was any further discussion. There was none. Chairman Whitton asked if the Board wanted to make a motion.

Vice-Chairman Miller made a motion to deny the request on the basis that the use will not be compatible with the neighborhood. Mr. Vaught-Hall seconded the motion and asked if the findings found in Staff Comments A, on pages 8 and 9 of the staff report, could be included as part of the basis for denial. Vice-Chairman Miller agreed to those additions. A roll call vote found Vice-Chairman Miller and Mr. Vaught-Hall voting yes and Chairman Whitton, Mrs. Hempfling, and Mr. Weltzer voting no. The motion failed by a vote of 2 to 3.

Chairman Whitton asked the Board if they wanted to make another motion. Chairman Whitton made a motion to approve the request on the following bases: (1) the proposed short term rental will be harmonious and in accord with the Comprehensive Plan; (2) the proposed short term rental meets, or can meet, all of the requirements of the zoning regulations; (3) any improvements to the property will be in character with the surrounding

area; (4) the proposed short term rental will not be hazardous to existing or future neighboring uses; (5) the proposed short term rental is adequately served by essential public facilities; (6) the administration and enforcement of the proposed short term rental will not create excessive additional requirements at public cost; and (7) the proposed short term rental will not be disruptive the properties in the vicinity of the site, and with the following condition:

1. That either:
  - a. Any advertisement of the property as a short term rental and all rental contracts must contain language that specifies the maximum number guests shall not exceed six (6), that no more than (2) bedrooms be occupied simultaneously, and the maximum number of vehicles shall not exceed two (2); or
  - b. A hard surface parking pad, at least nine (9) feet in width and eighteen (18) feet in length, shall be provided along the existing driveway, without widening the existing curb cut and any advertisement of the property as a short term rental and all rental contracts must contain language that specifies the maximum number guests shall not exceed eight (8) and the maximum number of vehicles shall not exceed three (3).

Mr. Weltzer seconded the motion. A roll call vote found Chairman Whitton, Mrs. Hempfling, and Mr. Weltzer voting yes and Vice-Chairman Miller and Mr. Vaught-Hall voting no. The motion passed by a vote of 3 to 2.

2. Request of Donald Barth for a Variance to reduce the minimum required frontage from 150 feet to approximately 126 feet and 69 feet in order to subdivide the property into two (2) lots. The approximate 12.8 acre parcel is located at 12855 Hutton Drive, Boone County, Kentucky and is zoned Agricultural Estates (A-2).

Staff Member, Michael Schwartz, presented the Staff Report which included a Powerpoint presentation (see Staff Report).

Chairman Whitton asked the Board if they had any questions for staff. There were none.

Chairman Whitton asked the applicant if they would like to provide the Board with any other information. Mr. Don Barth stated that he wanted to build a new house and he would move from the existing house on the site and then sell that newly created lot.

Chairman Whitton asked if there was anybody else in attendance that wanted to speak to this issue.

Mr. Glen Bailey asked if the request for his personal use. Mr. Barth replied that it is for his personal residence.

Vice-Chairman Miller asked if the Board's action needed to include anything about a

proposed easement for access. Mr. Schwartz replied that the easement issue will be covered with the submission of a plat.

Chairman Whitton asked if there was any further discussion. There was none. Chairman Whitton asked if the Board wanted to make a motion.

Mr. Vaught-Hall made a motion to approve the Variances as submitted. Vice-Chairman Miller seconded the motion.

Chairman Whitton called for the vote and it carried unanimously.

3. Request of Holthaus Signs, per Emily Bamonte, on behalf of OMCO Building, LLC, per Brandon Hipp, for Variances to increase the maximum height of four (4) directional signs from five (5) feet to seven (7) feet and to increase the maximum sign area of four (4) directional signs from six (6) square feet to sixteen (16) square feet. The approximate 13 acre parcel is located at 150 and 158 Dozer Drive, Boone County, Kentucky and is zoned Industrial One/Planned Development (I-1/PD).

Staff Member, Michael Schwartz, presented the Staff Report which included a Powerpoint presentation (see Staff Report).

Chairman Whitton asked the Board if they had any questions for staff. Vice-Chairman Miller asked that since this is a short cul-de-sac street, the only drivers going to the end of the street should be those that are going to the site. Mr. Schwartz replied yes.

Mrs. Hempfling asked if all four of the signs would be the same height and size. Mr. Schwartz replied yes.

Chairman Whitton asked the applicant if they would like to provide the Board with any other information. Myles Houska, Holthaus Signs, stated the additional height and size is necessary due to the size of the trucks and vehicles that come to the site. He stated that the additional height and size will reduce the need for trucks to back up if they enter the wrong driveway.

Chairman Whitton asked if there was anybody else in attendance that wanted to speak to this issue. There were none.

Chairman Whitton asked if there was any further discussion. There was none. Chairman Whitton asked if the Board wanted to make a motion.

Vice-Chairman Miller made a motion to approve the Variances as submitted. Mr. Vaught-Hall seconded the motion.

Chairman Whitton called for the vote and it carried unanimously.

4. Request of Immaculate Heart of Mary, per Theresa Guard for a Conditional Use Permit and Variance to: (1) replace an existing manual reader board with an electronic message

board/screen on an existing monument sign; and (2) to reduce the minimum spacing distance requirement between electronic message boards/screens from 660 feet to 284 feet. The approximate 13.5 acre parcel is located at 5876 Veterans Way, Boone County, Kentucky and is zoned Public Facilities (PF).

Staff Member, Michael Schwartz, presented the Staff Report which included a Powerpoint presentation (see Staff Report).

Chairman Whitton asked the Board if they had any questions for staff. Vice-Chairman Miller asked if the proposed electronic message panel would be placed on both sides of the existing sign. Mr. Schwartz replied yes.

Mrs. Hempfling asked if the sign has ever been updated. Mr. Schwartz replied that the only permit that is on file is the original permit issued in 1996.

Mrs. Hempfling asked if the sign could advertise for both the church and the school. Mr. Schwartz replied that the sign could advertise for the church, the school, and any other activity that is directly associated with functions on the site.

Chairman Whitton asked the applicant if they would like to provide the Board with any other information. Ms. Theresa Guard stated that she is the principal for the school and that they need to update the sign.

Vice-Chairman Miller asked if the applicant was agreeable to the restrictions noted in the staff report. Ms. Guard replied that they agree to those restrictions.

Chairman Whitton asked if there was anybody else in attendance that wanted to speak to this issue. There were none.

Chairman Whitton asked if there was any further discussion. There was none. Chairman Whitton asked if the Board wanted to make a motion.

Mr. Vaught-Hall made a motion to approve the Conditional Use Permit and Variance, subject to the following conditions: (1) no message shall contain more than one (1) still photo and/or three (3) lines of text; (2) any portion of an alphanumeric message that is not displayed on a still photo/image shall use a black background; and (3) the sign shall not be used to advertise off premise businesses/products/services. Vice-Chairman Miller seconded the motion.

Chairman Whitton called for the vote and it carried unanimously.

5. Request of John and Dawn Parker for a Conditional Use Permit to allow the existing single-family residential dwelling to be used as a short term rental. The approximate 2.1 acre parcel is located at 4866 Petersburg Road at the northeast corner of the intersection of Petersburg Road with Second Creek Road, Boone County, Kentucky and is zoned Agricultural Estates (A-2).

Staff Member, Michael Schwartz, presented the Staff Report which included a Powerpoint presentation (see Staff Report).

Chairman Whitton asked the Board if they had any questions for staff. There were none.

Chairman Whitton asked the applicant if they would like to provide the Board with any other information. Mr. John Parker asked if two children could occupy the bedroom that is under 120 square feet. Mr. Schwartz replied that it was the intent of the regulation to limit the occupancy of a small room to one person. Mr. Parker stated that he is agreeable to the suggested conditions as stated in the staff report. He stated he purchased the property from his parents and that he built the existing house for his brother who is handicapped, so the house is fully handicap accessible. He stated that he lives in the adjoining house and that he also owns another approximate 10 acres behind the site. He stated that he is farming the existing site where his house is located.

Chairman Whitton asked if there was anybody else in attendance that wanted to speak to this issue. There were none.

Chairman Whitton asked if there was any more comments. There were none.

Mrs. Hempfling made a motion to approve the Conditional Use Permit on the following bases: (1) the proposed short term rental will be harmonious and in accord with the Comprehensive Plan; (2) the proposed short term rental meets, or can meet, all of the requirements of the zoning regulations; (3) the proposed short term rental will not be hazardous to existing or future neighboring uses; (4) the proposed short term rental is adequately served by essential public facilities; (5) the administration and enforcement of the proposed short term rental will not create excessive additional requirements at public cost; and (6) the proposed short term rental will not be disruptive to the properties in the vicinity of the site, subject to the following conditions: (1) except as provided for in Article 34, there shall be no external on-site or off-site advertising signs or displays indicating the property is a short term rental; (2) there shall be no more than five (5) guests at any given time; (3) any advertisement of the property as a short term rental and all rental contracts must contain language that specifies the maximum number guests shall not exceed five (5) and the maximum number of vehicles shall not exceed four (4); (4) the short term rental shall comply with all applicable city, county, and state laws and codes; (5) the property owner shall pay the required hotel occupancy tax; (6) all advertisements, listings, or other publication offering the premises for rent shall include a written prohibition against the use of the short term rental for having a party; and (7) the short term rental shall not be used for any illegal purpose or any use that is not permitted within the A-2 district. Vice-Chairman Miller seconded the motion.

Chairman Whitton called for the vote and it carried unanimously.

**OTHER**

None.

**ADJOURNMENT**

Chairman Whitton asked for a motion to adjourn the meeting. Mr. Vaught-Hall made a motion to adjourn and Vice-Chairman Miller seconded the motion.

Chairman Whitton called for the vote and the meeting was adjourned by unanimous consent at 7:17 p.m.

**APPROVED**

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**Chairman George Whitton**

**ATTEST:**

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**Michael D. Schwartz**  
**Director, Zoning Services**